THE HON'BLE MR JUSTICE D.S.R.VARMA

AND

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO : 949 of 2006

DATED: 17.01.12006

Between:

Omsons Marines Limited reptd by

its Managing Director, Ch.Kishore Kumar

and another.

..... PETITIONERS

AND

1 The Chief Manager, Bank of India, Overseas

Branch, Visakhapatnam and another.

.....RESPONDENTS

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

AND

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

WRIT PETITON NO.949 OF 2006

ORAL ORDER: *(per Hon'ble Sri Justice D.S.R.Varma)*

The whole grievance of the petitioners in this writ petition is that proceedings under Section-13 (2) and (4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') was initiated against them, and in spite of an appeal under Section-17 of the Act has already been filed before the Debt Recovery Tribunal at Visakhapatnam, the same

is not being disposed of.

2. Heard the learned counsel appearing for the petitioners.

3. This Court is informed that the said Tribunal at Visakhapatnam has not been functioning for want of the Presiding Officer. However, the matters, which are pending and could not be disposed of for the said reason, have been transmitted for hearing and disposal to the Debt Recovery Tribunal at Hyderabad and consequently, the present appeal filed by the petitioners had also been transmitted to the Debt Recovery Tribunal at Hyderabad and the same is pending consideration.

4. Right of appeal under Section-17 of the Act is statutorily created, and the same is substantive in nature, where the proceedings initiated under Section-13 (2) or 13 (4) of the Act can be challenged by any aggrieved person.

5. This Court cannot delve into the merits of the case, which exercise can be done only by the Tribunal. It appears that the appeal filed by the petitioners is not being taken up by the tribunal for various reasons and that apart, the same is being adjourned from time to time.

6. Keeping in view the aforesaid situation, to protect the interest of the petitioners whose properties are likely to be sold consequent upon the eventual disposal of the appeal, we feel it expedient to direct the Debt Recovery Tribunal at Hyderabad to dispose of the appeal filed by the petitioners, as expeditiously as possible, preferably within a period of four months from today, if necessary, on priority basis and subject to the co-operation extended by both the parties. It is further clarified that in the meanwhile, there shall be stay of all further proceedings pursuant to the proceedings initiated under Section-13 (2) and (4) of the Act including sale of the properties.

7. With the above directions, the writ petition is disposed of. No order as to costs.

D.S.R.VARMA, J

17.01.2006

DR/SKM

P.S.NARAYANA, J